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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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10 IN RE: Bard IVC Filters Products
11 Liability Litigation,

12 No. MDL 15-02641-PHX-DGC

13 **CASE MANAGEMENT ORDER NO. 49**

14 Pursuant to Case Management Order (“CMO”) No. 48 (Doc. 21740), the parties
15 have filed status reports identifying previously dismissed cases that are ripe for
16 reinstatement. Docs. 21750 at 2, 21776 at 2 & n.2. A number of cases were voluntarily
17 dismissed without prejudice and without being settled, the parties having entered into a
18 tolling agreement so they could continue settlement discussions outside the confines of this
19 MDL. *See* Doc. 21526 at 1-2. Some Plaintiffs in these cases have since opted out of the
20 proposed settlements. *See id.* Because CMO 42 – which governs the settlement process
21 in this MDL – does not permit cases that have failed to settle to be dismissed from the
22 MDL without prejudice only to be refiled as new cases, the Court has concluded that the
23 dismissal orders in these opt-out cases must be vacated and the cases reinstated in the MDL.
24 *See* Docs. 16343, 21527, 2154. After reinstatement, the cases will be remanded or
25 transferred to appropriate courts for further litigation consistent with the MDL of which
26 they have been a part. *See* Doc. 21740 at 2.

27 On January 27, 2021, a telephonic status hearing was held to address 217 dismissed
28 cases in which the Plaintiffs had not accepted or opted out of settlements. *See id.* at 3;

1 Doc. 21734 at 5-6. Of the 217 cases at issue, counsel state that thirteen Plaintiffs have
2 accepted the settlement and four have chosen to opt-out. Doc. 21776 at 2. Plaintiffs in the
3 remaining 200 cases either cannot be located, are not responding to counsel's inquiries, are
4 deceased with no known heirs, or have not yet made a decision on the offered settlements.
5 *Id.* at 2-4.

6 The Court will grant counsel's request to continue until March 15, 2021 their efforts
7 to locate, contact, and secure settlement decisions from these Plaintiffs. As stated on the
8 record and agreed to by counsel for both sides, the Court will dismiss with prejudice any
9 cases in which, by March 15, 2021, the Plaintiffs or their heirs cannot be located, the
10 Plaintiffs remain non-responsive, or the Plaintiffs fail to make a settlement decision. These
11 cases will be dismissed with prejudice for failure to prosecute. *See Fed. R. Civ. P. 41(b).*

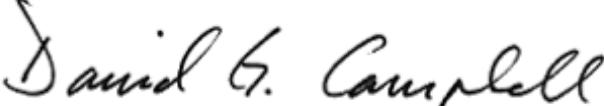
12 **IT IS ORDERED:**

13 1. The dismissal orders in the cases listed on Attachment A are **vacated**. The
14 Clerk is directed to reinstate each case in this MDL.

15 2. Settlement decisions from the Plaintiffs in the remaining 200 dismissed
16 cases (*see* Doc. 21776) must be made by **March 15, 2021**.

17 3. A telephonic hearing is set for **March 19, 2021 at 2:00 p.m.** Plaintiffs'
18 counsel shall file an updated status report, and provide the dial-in information for the
19 hearing to counsel for all parties and the Court, no later than **5:00 p.m. on March 17, 2021**.

20 Dated this 1st day of February, 2021.

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David G. Campbell
25 Senior United States District Judge
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